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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/692,341	10/23/2003	Robert J. Dalias	DALS-001XX	8538
207	7590	03/08/2006	EXAMINER	
WEINGARTEN, SCHURGIN, GAGNEBIN & LEOVICI LLP TEN POST OFFICE SQUARE BOSTON, MA 02109			GUIDOTTI, LAURA COLE	
			ART UNIT	PAPER NUMBER

1744

DATE MAILED: 03/08/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/692,341

Applicant(s)

DALIAS, ROBERT J.

Examiner

Laura C. Guidotti

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,4,6 and 8-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,4,6 and 8-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 1 requires "...bristles in said first rows having a length greater than the length of the bristles in said second rows." Claim 2 does not provide any further limitations to claim 1, since claim 2 only requires "...said first and second rows have first and second lengths, wherein said first length is greater than the second length."

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1, 2, 4, 6, 10, 17, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Tos et al., USPN 2,824,323.

Tos et al. disclose the claimed invention including a grill brush comprising a handle portion (10, 11), a head portion extending from the handle portion (30), the head portion having a first surface (first surface is portion where bristles extend from as shown in Figure 1), and a plurality of deformable metallic bristles (31; Column 2 Lines 14-15) are disposed in a plurality of generally parallel and alternating first and second

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rows (first rows are the rows of bristles having one consistent length and the second rows are the bristles that define the notch, 32; Figure 1) wherein the first rows have a length greater than the length of the bristles in the second rows (Figure 1). The bristles in each of the plurality of second rows (the second rows being the bristles define the notch 32) have varying lengths to provide second row surfaces each having a contoured cross section that is configured to correspond to the top surface of a corresponding grill grate (as shown in Figure 1; Column 2 Lines 15-17). The contoured cross-section is a generally convex cross-section (Figure 1). The head portion has a front end opposing the handle (the front of "30" facing the reader as shown in Figure 1) and the grill brush further includes a metallic scraper (17; Column 3 Lines 28-32). The system includes a grill grate with a plurality of parallel spaced grate bars (23; Column 3 Lines 38-39), each of the bars having a top surface, side surfaces, and a length (see Figure 5), the grate bars forming a grate surface contour along a cross-section in a plane orthogonal to the length and having centerlines spaced by a first distance (see Figure 5; centerlines run through the bars 23). Also, the plurality of bristles having a non-planar bristle surface contour forming a plurality of generally parallel spaced recesses extending at least partially along the length of the head portion (each notch "32" is the recess), each recess having a cross-section configured to generally confront a corresponding grate bar when the grill brush is disposed in abutting relation with the grill grate (Column 2 Lines 33-37).

Claim Rejections - 35 USC § 103

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
 2. Ascertaining the differences between the prior art and the claims at issue.
 3. Resolving the level of ordinary skill in the pertinent art.
 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.
3. Claims 1, 2, 12-14, and 16-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farls, USPN D417,324 in view of Fassler, USPN 4,365,380.

Farls discloses the claimed invention including a grill brush comprising a handle portion (see Figures), a head portion extending away from the handle portion (see Figures), the head portion having a first surface (the first surface is the surface of the head facing upward in Figure 1), a plurality of cleaning elements or fibers extending from the first surface (appears to be a mass of fibers such as steel wool or a foam, see Figures), the cleaning elements are disposed in a plurality of generally parallel and alternating first and second rows (see Figures) wherein bristles in the first rows (first rows being the "end rows" in Figures 4-5) have a length greater than the length of the bristles in the second rows (second rows being the rows between the first rows that are the shortest, see Figures 4-5). The head portion has a front end opposing the handle

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(see leftmost portion in Figure 2) and further includes a scraper mounted to the front end (see Figures). The head portion and the handle are of an integral unitary structure (see Figures). The grill brush has a non-planar bristle surface contour (see Figures) forming a plurality of generally parallel spaced recesses extending at least partially along the length of the head portion (see Figures). The recesses are generally rectangular (see particularly Figures 4-5). Farls does not disclose that the cleaning elements are deformable metallic bristles or what material the head and handle portion comprises of.

Fassler discloses a grill brush for cleaning a grill grate having bars or rod members (Column 1 Line 66 to Column 2 Line 4) wherein a plurality of deformable metallic bristles (16, 18; Column 4 Lines 8-18) are mounted to a brush head and are disposed in two rows of longer bristles and two rows of shorter bristles where only the rows of longer bristles alternate once (see Figure 4). The bristles are used to scrape the top and side of the rod simultaneously (Column 4 Line 67 to Column 5 Line 8; Figure 4). Additionally, the head portion and handle portion are unitary and are formed of a strong and thermally insulating material such as wood or plastic (Column 3 Lines 53-62). The grill grate (G) shown in Figure 4 includes grate bars having a top surface, side surface, an implied length, and form a grate surface contour along a cross-section in a plane orthogonal to the length (plane shown in Figure 4), the grate bars having centerlines spaced by a first distance (the centerlines would be through the center points of each bar as shown in Figure 4). A portion of the plurality of bristles are molded into the head portion (Column 4 Lines 10-14).

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It would have been obvious for one of ordinary skill in the art to substitute the grill brush cleaning elements of Farls for deformable metallic bristles that are molded into the head, as Fassler teaches, in order to effectively clean and scrape the top and side surfaces of grill grate rods and it would have been obvious for one of ordinary skill in the art to modify the unitary head and handle portion of Farls to be constructed of plastic or wood, as Fassler teaches, in order to provide a strong and insulating material for a handle that is used for grilling.

4. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Farls, USPN D417,324 and Fassler, USPN 4,365,380 as applied to claim 1, in view of Daw, USPN 6,125,493.

Farls and Fassler disclose all elements above including that the bristles are metallic. Farls and Fassler do not disclose a specific bristle metal material such as brass or stainless steel.

Daw discloses a barbeque brush that has scraping bristles that comprise of brass (Column 2 Lines 49-51).

It would have been obvious for one of ordinary skill in the art to construct the bristles of Farls and Fassler from brass, as Daw teaches, in order to sufficiently clean and remove debris from grill cleaning surfaces and further it would have been obvious to one of ordinary skill in the art at the time the invention was made to have some or all of the bristles be comprised of stainless steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability

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for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

5. Claims 8-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Tos et al., USPN 2,824,323 in view of Daw, USPN 6,125,493.

Tos et al. disclose all elements above including that the bristles are metallic. Tos et al. does not disclose a specific bristle metal material such as brass or stainless steel.

Daw discloses a barbeque brush that has scraping bristles that comprise of brass (Column 2 Lines 49-51).

It would have been obvious for one of ordinary skill in the art to construct the bristles of Tos et al. from brass, as Daw teaches, in order to sufficiently clean and remove debris from grill cleaning surfaces and further it would have been obvious to one of ordinary skill in the art at the time the invention was made to have some or all of the bristles be comprised of stainless steel, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

6. Claims 1 and 10-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Carton, USPN 5,479,673 in view of Tos et al., USPN 2,824,323.

Carton discloses the claimed invention including a grill cleaning brush having a handle portion (1), a head portion (3) having a first surface (surface where bristles "5" extend and where reference numeral "4" is indicated), and a plurality of metallic bristles mounted and extending from the first surface of the head portion (see Figures 1-2;

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Column 2 Line 38). The head portion has a front end opposing the handle (leftmost end as shown in Figures 1-2) and the grill brush further includes a scraper mounted to the front end (9) and an abrasive pad supporting member extending from the head portion (portion of "3" near means "6", see Figures 1-2), the grill brush further including an abrasive pad mounted to the supporting member (7; Column 2 Lines 49-50). The head portion and handle portion are an integral structure (see Figure 2; Column 2 Lines 42-47). Carton does not disclose that the head includes bristles disposed in generally parallel and alternating rows and are of different lengths and provide a non-planar bristle surface contour or specifically that the scraper is metallic.

Tos et al. discloses all elements above including bristles that are different lengths and a scraper that is metallic (17; Column 3 Lines 28-32) for scraping grilling surfaces.

It would have been obvious for one of ordinary skill in the art to modify the bristle lengths of Carton to have alternating first and second rows of different lengths so that the first row has a length greater than the bristles of the second row and provide a non-planar bristle surface contour, as Fassler teaches, in order to accommodate shaping of grill grates and it would have been obvious to construct the scraper of Carton from metal, as Fassler also teaches, in order to sufficiently scrape grill grate surfaces.

7. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Carton, USPN 5,479,673 and Tos et al., USPN 2,824,323 as applied to Claim 1, in further view of Connor, USPN 1,919,010.

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Carton and Tos et al. disclose all elements above and Carton further disclose "eyes" (or staples) that secure bristles to the brush head (Column 2 Lines 35-38), however they do not disclose that the bristles have U-shaped portions.

Connor discloses metal bristles (11) that have U-shaped portions (since bristles "11" are folded, see Figures 1-2; Page 1 Lines 64-66) that are extended through an eye (the staple 15). There is a plurality of the eyes (one for each tuft of metal bristles, see Figures). The eyes are press fit into corresponding recesses (12) within a first surface (top surface of 10 facing upwardly as shown in Figure 2) to securely retain a plurality of bristles within the head (Page 1 Lines 61-80). Connor does not state what material the eyes are constructed of.

It would have been obvious to secure the bristles by staples of Carton and Tos et al., by providing U-shaped portions extending through eyes (or staples) being fit into corresponding recesses, as Connor teaches, so that metal bristles are sufficiently secured and held within a brush head and furthermore it would have been obvious to one of ordinary skill in the art at the time the invention was made to have the eyes or staples be metallic, since it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious engineering choice. In re Leshin, 125 USPQ 416.

Applicants Arguments

8. In the response filed 23 December 2005, the Applicant contends:

A. Fassler provides no suggestion or disclosure in which pluralities of alternating parallel rows of bristles having longer and shorter lengths are arranged to permit the cleaning of a plurality of spaced grate bars of a grill grate.

B. Dugrenier does not disclose a plurality of parallel rows of shower deformable metallic bristles separated by rows of longer deformable bristles. Dugrenier teaches steel pegs that are not deformable.

C. Nowhere in Carton or Fassler is there any suggestion or motivation to modify the Carton scrub brush to provide first and second pluralities of alternating rows.

Response to Arguments

9. Applicant's arguments with respect to claims 1-2, 4, 6, 8-19 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

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the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Laura C. Guidotti whose telephone number is (571) 272-1272. The examiner can normally be reached on Monday-Thursday, 7:30am - 5pm, alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gladys Corcoran can be reached on (571) 272-1214. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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GLADYS J. CORCORAN
PRIMARY EXAMINER